

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Janet Malam,

Petitioner-Plaintiff,

Case No. 20-10829

and

Judith E. Levy

Qaid Alhalmi, *et al.*,

United States District Judge

Plaintiff-Intervenors, Mag. Judge Anthony P. Patti

v.

Rebecca Adducci, *et al.*,

Respondent-Defendants.

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**ORDER GRANTING PLAINTIFFS' MOTION FOR INCLUSION
OF SKRIPKOV IN THE HABEAS LITIGATION GROUP [233]**

On September 3, 2020, Plaintiffs filed a motion for inclusion of Andrei Skripkov in the habeas litigation group. (ECF No. 233.) On September 15, 2020, Defendants submitted a response. (ECF Nos. 270.) On September 22, 2020, Plaintiffs were granted leave to file a reply, which was subsequently filed on September 24, 2020. (ECF Nos. 289, 294.) On November 18, 2020, the Court entered an order requiring Defendants to provide supplemental documentation indicating

Skripkov's three most recent blood pressure readings. (ECF No. 414.) On November 19, 2020, Defendants filed the requested supplemental briefing. (ECF No. 415.)

After reviewing the motion and briefing, the Court grants Plaintiffs' motion for inclusion of Skripkov in the habeas litigation group.

I. Certification of Habeas Litigation Group

On July 31, 2020, the Court certified "a habeas litigation group of all noncitizens who are detained in ICE custody in the Calhoun County Correctional Center ["CCCF"], and who have one or more medical risk factors placing them at heightened risk of severe illness or death if exposed to COVID-19." (ECF No. 162, PageID.5146–5147.) The group definition was subsequently amended on August 19, 2020, to be "defined as of [sic] all noncitizens who are detained in ICE custody in the [CCCF] or who have been released pursuant to a preliminary injunction or bail order issued by the undersigned, and who have one or more medical risk factors placing them at heightened risk of severe illness or death if exposed to COVID-19." (ECF No. 191, PageID.5578.)

The Court also established a process for determining habeas litigation group membership in ECF No. 167, the mechanics of which

were later revised in ECF Nos. 177 and 299. ECF no. 177 indicates that for individuals with conditions not on the list created by Defendants, the process is as set forth below:

For Plaintiffs without conditions on Defendants' August 11, 2020 list, Plaintiffs must email Defendants prior to submitting a bail application. If Defendants stipulate to a Plaintiff's heightened risk, Plaintiffs may submit a bail application for that Plaintiff. If Defendants do not so stipulate, Defendants must produce [CCCCF] medical records for that Plaintiff within three business days of Plaintiffs' email and make reasonable efforts to obtain other ICE medical records, which they must produce upon procurement. For Plaintiffs for whom criminal history has not yet been produced, Defendants must also produce criminal history records within three days. Plaintiffs may then move at any point for membership in the habeas litigation group. Defendants may respond within no more than five business days. In individual cases, Defendants may move for an extension of the deadline to file a response. The Court will issue an order for reply briefing if necessary. If the Court finds a Plaintiff to be a member of a habeas litigation group, that Plaintiff may submit a bail application.

(*Id.* at PageID.5316–5317.)

II. Skripkov's Motion for Inclusion

The Court previously considered Skripkov's motion for inclusion in detail. (ECF No. 414, PageID.11033–11037.) Plaintiffs argue that Skripkov is at heightened risk for serious illness or death from COVID-19 because of his alleged hypertension, coronary atherosclerosis, and age (i.e., 49 years old). (ECF No. 233, PageID.6613-6615.) The Court

requested supplemental documentation from Defendants indicating Skripkov's three most recent blood pressure readings. (*Id.* at PageID.11037.)

The supplemental documentation provided by Defendants indicated that Skripkov's three most recent readings were as follows:

1. On September 10, 2020, Skripkov had a systolic reading of 130, and a diastolic reading of 82, for a collective reading of 130/82 mmHg. Because the systolic reading is between 130-139, and the diastolic reading is between 80-89, Skripkov's September 10, 2020 values correspond to a Stage 1¹ high blood pressure reading.

¹ The Court recognizes that there appears to be no single set of guidelines used to determine a diagnosis of high blood pressure. *See High Blood Pressure Symptoms and Causes*, Ctrs for Disease Control and Prevention (May 19, 2020), <https://www.cdc.gov/bloodpressure/about.htm> [<https://perma.cc/7GGC-8RSX>]; *see also Blood pressure chart: What your reading means*, Mayo Clinic (Jan. 9, 2019), <https://www.mayoclinic.org/diseases-conditions/high-blood-pressure/in-depth/blood-pressure/art-20050982> [<https://perma.cc/CX5R-YKKT>]; *Understanding Blood Pressure Readings*, American Heart Association, <https://www.heart.org/en/health-topics/high-blood-pressure/understanding-blood-pressure-readings> (last visited December 2, 2020) [<https://perma.cc/P5FD-7WG4>]. The Court relies here on the guidelines set forth by the American Heart Association (i.e., what the CDC refers to as the 2017 Guideline)—the same standard relied upon by the parties—for its determination as to which blood pressure category is associated with each independent blood pressure reading.

2. On October 5, 2020, Skripkov had a systolic reading of 143, and a diastolic reading of 85, for a collective reading of 143/85 mmHg. Because the systolic reading is between over 140, Skripkov's September 10, 2020 values correspond to a Stage 2 high blood pressure reading.
3. On November 4, 2020, Skripkov had a systolic reading of 135, and a diastolic reading of 87, for a collective reading of 135/87 mmHg. (ECF No. 415, PageID.11038.) Because the systolic reading is between 130-139, and the diastolic reading is between 80-89, Skripkov's November 4, 2020 values correspond to a Stage 1 high blood pressure reading.

Additional blood pressure readings from Skripkov's medical records at CCCF indicate further elevated readings taken in February 2020 (140/90 mmHg), March 2020 (143/87 mmHg), May 2020 (147/82 mmHg), and August 2020 (152/90 mmHg). (ECF No. 274, PageID.7175.) Of the eight² total blood pressure readings taken during the year 2020, only one reading—the June 2020 reading (120/77 mmHg)—does not meet the

² This number is based upon the records as presented to the Court. (ECF No. 274, PageID.7175.) Although Skripkov was allegedly monitored in August of 2020 for high blood pressure while in ICE custody, any results taken from this period of monitoring appear to not have been included in the medical records provided. *Id.*

threshold for either Stage I or Stage II hypertension. (ECF No. 274, PageID.7175.) Guidance provided by the Centers for Disease Control and Prevention (“CDC”) and other medical experts indicate that an individual is diagnosed with blood pressure if that individual has blood pressure readings “consistently above normal[.]” *High Blood Pressure Symptoms and Causes*, Ctrs for Disease Control & Prevention (May 19, 2020), <https://www.cdc.gov/bloodpressure/about.htm> [https://perma.cc/3TRH-H6L3]; see also *High Blood Pressure*, Nat’l Heart, Lung, and Blood Institute (May 8, 2020), <https://www.nhlbi.nih.gov/health-topics/high-blood-pressure> [https://perma.cc/2TNE-YMG2]; *High blood pressure (hypertension)*, Mayo Clinic (May 12, 2018), <https://www.mayoclinic.org/diseases-conditions/high-blood-pressure/diagnosis-treatment/drc-20373417> [https://perma.cc/SG7H-9A4Q] (stating that a doctor will frequently take two to three blood pressure readings each at three or more separate appointments before diagnosing an individual with hypertension). Skripkov’s blood pressure readings taken throughout the year 2020 as presented to the Court reveal that Skripkov has consistently had elevated blood pressure readings, such that he likely meets the threshold for at least Stage I hypertension.

The CDC identified having a diagnosis of hypertension as a risk factor that may put an individual at an increased risk for severe illness resulting from COVID-19. *People with Certain Medical Conditions*, Ctrs for Disease Control & Prevention (Dec. 1, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>

[<https://perma.cc/NZ2P-5GJ7>]. Additionally, the CDC did not distinguish any threshold category of hypertension (e.g., Stage I hypertension or Stage II hypertension) as necessary to be considered at high risk. *Id.*

After reviewing the motion and briefing, the Court finds Skripkov is at heightened risk of severe illness or death if exposed to COVID-19. The Court finds Skripkov's likely hypertension, coronary atherosclerosis, and advancing age collectively contribute to Skripkov's medical vulnerability to COVID-19. Accordingly, Skripkov's motion for inclusion in the habeas litigation group is granted.

III. Conclusion

For the reasons stated above, the Court grants Plaintiffs' motion for inclusion of Skripkov in the habeas litigation group.

IT IS SO ORDERED.

Dated: December 3, 2020
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on December 3, 2020.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager